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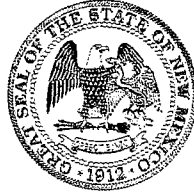
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August 6, 2008

MEMORANDUM

TO: Legislative Education Study Committee

FR: Eilani Gerstner 

RE: STAFF REPORT: WORK-STUDY PROGRAMS

The 2008 interim workplan of the Legislative Education Study Committee (LESC) includes a presentation on work-study programs, including the implementation of state and federal work-study programs in New Mexico, the effect of increases in the state and federal minimum wages on New Mexico's work-study program, and the effect of work-study programs on student retention and graduation rates.

Background

Work-study programs have provided employment opportunities for college students nationwide since 1965, when the federal work-study program was implemented under Title IV of the *Higher Education Act of 1965*. Classified as financial aid, work-study programs provide eligible undergraduate and graduate students with employment opportunities that are funded in part by state or federal work-study funds. They also provide a supplement or alternative to student loans for many students. The recent crash of the subprime mortgage loan industry (which triggered the so-called "credit crisis") has had an effect on the availability of certain sources of student financial aid – private student loans in particular. (See Attachment 1 for a brief discussion of the status of the student loan industry and the efforts of the federal government to provide relief.)

Work-study programs represent sources of financial aid that are not directly affected by the current credit crisis. Even so, as explained below, they may be affected by other factors, such as upcoming increases in the federal and New Mexico minimum wages since the work-study programs in New Mexico are governed by both federal and state law.

Revised 8/13/08

The Federal Work-Study Program

The federal work-study program allocates funding to eligible institutions to employ undergraduate or graduate students part-time on a needs basis. The federal *Higher Education Act* requires that 7.0 percent of federal work-study positions at each participating institution be community service related, and institutions must place students in positions that, “to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student.” Among other provisions, the act:

- allows students who receive federal work-study awards to be employed by:
 - the institution they attend, but not in the institution’s for-profit activities;
 - a federal, state, or local public agency;
 - a private nonprofit organization; or
 - a private for-profit organization;
- requires employers of federal work-study award recipients to match 25 percent of the funding, except in the case of private, for-profit organizations, which must match 50 percent;
- waives the requirement to match 25 percent of the student’s salary when a work-study student tutors elementary students in reading or mathematics; and
- requires that students earn the minimum wage.

The State Work-Study Program

Enacted in 1982, the state *Work-Study Act* (see Attachment 2), directs the former Commission on Higher Education (CHE) (now the Higher Education Department, HED) to create and maintain a state work-study program. The act creates a Work-Study Fund in the state treasury and specifies how the funds shall be allocated and disbursed; describes the program; defines student eligibility and student compensation; and delineates eligible jobs that students may hold as part of the program. At least one-third of all state work-study expenditures must be for students who demonstrate a financial need to pay for their education. According to the act, the institution that the student attends shall arrange employment; the employer must pay at least 20 percent of the salary and benefits of the student; and students may not earn less than the minimum wage.

The act defines an eligible institution as any state postsecondary educational institution and any private nonprofit postsecondary educational institution in New Mexico. According to HED, both undergraduate and graduate students participate in the state work-study program. The act defines an eligible student as one who:

- is enrolled at the institution at least half-time;
- complies with the institution’s satisfactory academic progress requirements; and
- is a resident of New Mexico and has legally entered the United States.

Other than the institution a student attends, employment is limited to:

- postsecondary nonprofit institutions;
- state political subdivisions;
- state agencies; and
- nonprofit organizations that are approved by HED.

However, work-study students may not work in jobs that:

- advance a religious purpose;
- have an objective that is primarily religious;
- involve excessive entanglements with a religious organization; or
- involve partisan political activity.

Work-Study Programs in New Mexico

To receive a state or federal work-study award, students complete the *Free Application for Federal Student Aid* (FAFSA) to determine their level of financial need. Based upon that need, each postsecondary educational institution provides eligible students with work-study awards. A work-study award does not guarantee a student employment; he or she must also apply and qualify for an employment position.

Two funding sources contribute to a single work-study award: one is the amount from state or federal work-study funds, and the other is the employer's match. The total of these two amounts equals the work-study award, which is also the maximum amount that the student may earn in a work-study job during the academic year. For example, if a student receives a state work-study award of \$2,000 for academic year 2008-2009, 20 percent of that amount (\$400) is paid by the employer (in the case of a federal work-study award, the employer's match is 25 percent), and 80 percent (\$1,600) comes from state work-study funding.

Once a student has obtained a position, some institutions charge the employer with ensuring that a student's earnings do not exceed the work-study award; others require the student to track his or her earnings. In the event that a student's earnings reach the maximum amount before the end of the academic year, the employer may continue to employ the student as long as the employer pays 100 percent of the student's salary beyond the maximum.

In academic year 2006-2007, the most recent year for which HED has state work-study award information available, the average state work-study award at New Mexico postsecondary educational institutions was \$1,993 for the academic year. That year, students received state work-study awards ranging from \$568 at the Southwest Indian Polytechnic Institute to \$3,635 at the College of Santa Fe.

Program Features

Work-study programs may vary across institutions. Many institutions in New Mexico offer state work-study and federal work-study awards, and some also offer additional awards funded by the institution. For example, according to their websites, New Mexico State University (NMSU) and San Juan College have institutional work-study programs

in addition to the state and federal work-study programs. Institutions and other employers may also contribute more than the required match. For example, according to NMSU, the university matches 30 percent of students' salaries for state and federal work-study, exceeding the requirements of 20 and 25 percent, respectively.

There is also variety in the positions in which students may be employed for work-study, and students may earn more per hour than the required minimum wage according to the qualifications required to hold the position. Some examples of work-study jobs advertised at several New Mexico postsecondary institutions show the variety in type of work, salaries, and work hours offered in work-study programs.

- The University of New Mexico (UNM) offers work-study positions in 11 categories. Positions advertised range in salary from \$6.75 per hour to \$10.00 per hour, and required work hours range from eight hours per week to 40 hours per week:
 - library assistants at the university library earn \$6.75 per hour and work 10 to 30 hours per week;
 - tutors or mentors in the UNM Service Corps program earn \$8.50 per hour and work 15 to 20 hours per week; and
 - ecology laboratory assistants in the biology department earn \$8.00 to \$10.00 per hour, depending on experience, and work 10 to 20 hours per week.
- At NMSU, students may apply for work-study positions in approximately 25 offices. Many positions advertised pay the current minimum wage, \$6.55 per hour, but some pay as much as \$7.50 per hour. Required work hours range from 10 to 20 hours per week. Among the work-study positions at NMSU:
 - an assistant pre-prosecution diversion officer in the Third Judicial District attorney's office earns \$6.55 per hour and works 20 hours per week;
 - a clerical aide in the services for students with disabilities office earns \$6.55 per hour and works 20 hours per week; and
 - an Adult Basic Education tutorial assistant in the Gadsden Learning Center earns \$7.30 per hour and works 10 to 15 hours per week.
- San Juan College does not post salary information on its work-study employment site, and each position is titled "Work Study Position." Students may apply for positions in 17 different campus offices or departments, including:
 - the art gallery for 10 to 15 hours per week;
 - the counseling center for up to 20 hours per week; and
 - the office of technology services for up to 20 hours per week.

While neither state law nor HED rule limits the number of hours that state work-study students may work per week, HED reports that the department has reviewed the average number of hours that students work at each institution and that the department will be encouraging a "target" of at least 300 hours per academic year, or 10 hours per week, to allow students sufficient time to focus on their studies.

In order to expand and improve work-study opportunities in New Mexico, in 2007, the Financial Aid Division at HED formed a work group comprising student government

association presidents from UNM and NMSU and the executive director of the New Mexico Commission for Community Volunteerism. The work group recommended an increase in the FY 09 Executive budget recommendation for work-study to approximately \$11.4 million, nearly double the FY 08 funding of approximately \$5.7 million. Although the work-study funding was not increased by the amount requested, the 2008 Legislature included an additional \$250,000 for the work-study program in the student financial aid appropriation, a 4.4 percent increase over FY 08 funding, bringing the FY 09 work-study budget to approximately \$6.0 million (see “Work-Study Funding Levels and Participation Rates” below).

The work group has also addressed how to increase the number of students participating in community-service related work study. As mentioned earlier, the federal work-study program requires that 7.0 percent of participants be employed in community service related jobs; the work group supports implementing the 2006 New Mexico Blueprint for Civic Engagement proposal to increase participation in community service related work-study statewide to 50 percent. According to the New Mexico Commission for Community Volunteerism, students who participate in over 300 hours per academic year of community service related work-study through UNM’s Service Corps program may be eligible for up to two \$1,000 federal educational awards to use toward their education or to pay student loans, and the group is considering how to spread this opportunity to other institutions.

Another example of efforts to increase work-study participation in New Mexico is the Governor’s Poverty Reduction Task Force, which is focusing on expanding access to higher education as one way to reduce poverty in New Mexico. Toward this end, the task force is considering an increase in funding for state work-study to meet the new minimum wage requirements and to increase the number of participants in the state work-study program.

Work-Study Funding Levels and Participation Rates

Each year, the Legislature makes one appropriation to HED to fund the approximately 20 student financial aid programs administered by the department, including the state work-study program. Since 1999, the Legislature has appropriated approximately \$223.2 million in non-reverting funds from the General Fund to HED for student financial aid. Of that amount, approximately \$54.0 million – 24 percent of all student financial aid – has gone to the state work-study program (see Table 1, *State Work-Study Budget*).

**Table 1. State Work-Study Budget
FY 00 – FY 09 (in thousands)**

Fiscal Year	Academic Year	Student Financial Aid Appropriation (A)	State Work-Study Budget (B)	Work-Study as a Percentage of Financial Aid (B / A)	Work-Study Fund Balance from prior fiscal year	Total Available
2000	1999-2000	\$24,877.1	\$4,945.7	24%	\$144.4	\$5,090.1
2001	2000-2001	\$24,127.4	\$5,127.1	24%	\$34.5	\$5,161.6
2002	2001-2002	\$23,914.4	\$5,200.0	24%	\$174.4	\$5,374.4
2003	2002-2003	\$23,143.0	\$5,189.6	25%	\$9.2	\$5,198.8
2004	2003-2004	\$22,194.6	\$5,189.6	23%	\$106.0	\$5,295.6
2005	2004-2005	\$22,252.8	\$5,189.6	23%	\$6.6	\$5,196.2
2006	2005-2006	\$21,252.8	\$5,739.6	24%	\$7.2	\$5,746.8
2007	2006-2007	\$21,245.2	\$5,739.6	24%	\$0.0	\$5,724.3
2008	2007-2008	\$20,484.0	\$5,739.6	25%	\$0.0	\$5,739.6
2009	2008-2009	\$19,739.5	\$5,989.6	25%	\$0.0	\$5,989.6
TOTALS:		\$223,230.8	\$54,050.0	24%		

Source: LFC, adapted by LESC, July 2008

The *Work-Study Act* requires HED to allocate state work-study funds equitably among eligible institutions. According to HED, the department uses a formula to calculate each institution's allocation, with one-third of each allocation based upon student need and two-thirds on the percentage of New Mexico residents enrolled in six or more credit hours. Because institutions apply directly to the federal government to participate in the federal work-study program, HED does not allocate federal work-study funds to postsecondary institutions. However, HED does collect the number of federal work-study recipients and federal work-study awards from postsecondary institutions for annual reporting purposes.

Table 2, *Total State and Federal Work-Study Recipients and Awards*, shows the total number of state and federal work-study recipients and the total work-study award amounts from FY 00 through FY 07, the last year for which participation data are available. Because of the required employer match, the "Total Amount Awarded" shown in Table 2 is greater than the "State Work-Study Budget" shown in Table 1.

**Table 2. Total State and Federal Work-Study Recipients and Awards
FY 00 – FY07**

Fiscal Year	Academic Year	State Work-Study		Federal Work-Study	
		Number of Recipients (actual numbers)	Total Amount Awarded* (approximate, in thousands)	Number of Recipients (actual numbers)	Total Amount Awarded* (approximate, in thousands)
2000	1999-2000	5,912	\$14,741.4	7,034	\$16,676.9
2001	2000-2001	3,491	\$6,906.8	4,530	\$8,593.1
2002	2001-2002	3,631	\$6,833.0	4,296	\$8,181.2
2003	2002-2003	3,473	\$6,811.5	4,134	\$7,753.7
2004	2003-2004	4,006	\$6,453.3	4,608	\$7,687.3
2005	2004-2005	3,691	\$6,459.6	4,179	\$7,231.3
2006	2005-2006	3,469	\$6,862.9	4,026	\$7,073.7
2007	2006-2007	3,407	\$7,123.5	3,567	\$7,403.4
	TOTALS:	31,080	\$62,192.0	36,374	\$70,600.6

* "Amount Awarded" includes the employer match
Source: HED

From the data available, the significantly higher FY 00 participation and award amounts for state and federal work-study appear to be anomalies. It is unlikely that the FY 00 numbers are accurate since the number of recipients in both categories varies greatly from FY 00 to FY 01, and that year also had the smallest state work-study budget in the past 10 years (approximately \$4.9 million, see Table 2). According to HED, the difference in postsecondary enrollment statewide does not correspond to an equally large difference, and it is not apparent why the FY 00 numbers are so much greater than the previous or subsequent years.

When determining requests for increased state work-study funding, HED has considered the past five years of state work-study participation (see "Issues" below). During that time, the highest state work-study participation was in FY 04, when 4,006 participants received a total of approximately \$6.5 million in state work-study awards. That year also had the highest participation in the federal work-study program, 4,608 students, who received a total of approximately \$7.7 million in federal work-study awards.

Work-Study Programs and Student Success

A number of research studies published since the late 1980s have investigated the relationship between work-study programs and student retention and graduation. One caveat to keep in mind when reviewing the results of such research studies is that retention rates may be measured over different time periods. While HED reports the percentage of students who are eligible for work-study who continue to be enrolled through the sixth semester, some studies track the retention rates – often referred to as "persistence" – over the course of one year or two years, or track graduation rates after five years. Although graduate students may participate in work-study programs, many studies have focused on undergraduate persistence and graduation rates.

- *Undergraduates Who Work: National Postsecondary Student Aid Study 1996* – A publication of the US Department of Education's National Center for Education Statistics, this study investigated the effect of working upon undergraduate students'

academic performance and borrowing to pay for education at four- and two-year institutions. Although the study did not focus specifically on work-study programs, findings of the study indicated that students may substitute working for borrowing in order to pay for their education. Among its findings, this study showed that:

- students who worked 15 or fewer hours were more likely to report that working had a positive effect on their academic performance than students who worked more than 15 hours;
 - students who worked 15 or fewer hours were less likely to interrupt their enrollment than students who did not work or students who worked over 15 hours;
 - students who worked more than 15 hours per week were at least twice as likely to report that work had a negative impact on their academic performance, and they were more likely to interrupt their enrollment; and
 - borrowing enough to reduce the number of hours a student needs to work to not more than 15 hours per week may increase a student's chances of completing his or her degree.
- *What influences student persistence at two-year colleges?* – This study, published in the winter 2001 edition of *Community College Review*, investigated the effect of student financial aid on the persistence of students at two-year colleges in 1993 and 1996. The study used data on community college students from the National Postsecondary Student Aid Surveys for academic years 1992-1993 and 1995-1996, and it focused on persistence within the academic year. This study found that, in 1996, students at two-year institutions were:
 - 18.1 percent more likely to persist per \$1,000 of work-study funds received;
 - 13.1 percent more likely to persist per \$1,000 in grants received; and
 - 8.0 percent more likely to persist for every \$1,000 in student loans received.
 - *The Contribution of Financial Aid to Undergraduate Persistence* – This report, presented at the annual meeting of the Association for the Study of Higher Education in 1997, studied the effects of financial aid on bachelor's degree completion of freshman in academic year 1989-1990. Findings of the report indicated that:
 - receiving grants, loans, and work-study increased the probability of students persisting from the second to the third year by 10.2 percent; and
 - students who received work-study completed a bachelor's degree within five years at a higher rate than those who did not – 58.9 percent compared to 49.6 percent, respectively – and the difference was statistically significant.

These studies indicate that participating in work-study programs, particularly when students work 15 hours or less per week and receive other assistance including loans and grants, may have an overall positive impact on students' retention and graduate rates.

These research findings may be reflected in the state's experience as well. According to the Legislative Finance Committee (LFC), the current work-study performance measure¹

¹ In 1999, the Legislature enacted the *Accountability in Government Act*, which requires that state agencies develop performance measures and annually and quarterly report the outcomes of those measures to the LFC and to the State Budget Division of the Department of Finance and Administration.

for the work-study program is that 70 percent of students meeting eligibility criteria for work-study programs will continue to be enrolled by the sixth semester. Table 3, *State Work-Study Performance Outcomes*, shows the performance outcomes for the work-study program from FY 01, when the department began measuring and reporting the performance outcome, through FY 07; a report from the Department of Finance and Administration indicates that the performance outcome was not reported in FY 04.

**Table 3. State Work-Study Performance Outcomes
FY 01 – FY 07**

Fiscal Year	Performance Outcome
2001	68%
2002	59%
2003	60%
2004	<i>not available</i>
2005	65%
2006	74%
2007	73%

Source: LFC

As shown in Table 3, in FY 01, the department reported that 68 percent of work-study students were still enrolled in their sixth semester. However, that number dropped to 59 percent in FY 02. Since FY 02, the performance outcome increased to 74 percent in FY 06, but decreased slightly in FY 07. However, since FY 06 the performance outcome has exceeded the performance measure of 70 percent.

Issues

This review of New Mexico's work-study program has identified several issues that may be of interest to the committee.

Administrative Matters

Currently, HED does not have a list of approved nonprofit organizations at which students may be employed for work-study. The department rule (Attachment 3) addresses and expands upon the state work-study program as outlined in law, but it has not been updated since at least 1998. According to HED, the department will be revising the rule, including approving nonprofit organizations for participation in the state work-study program.

Minimum Wage Increases

Beginning in 2007, both the New Mexico and the federal minimum wages began phased increases to raise the respective minimum wages, which had both been \$5.15 per hour since 1997. By January 1, 2009 New Mexico's minimum wage will reach \$7.50 per hour, and by July 24, 2009 the federal minimum wage will reach \$7.25 per hour. According to the *Fair Labor Standards Act of 1938*, when both state and federal minimum wage laws apply, employees are entitled to the higher minimum wage; therefore, by 2009 New Mexico's minimum wage will supersede the federal wage. In the meantime, however, the state law also provides that, when the federal minimum wage

increases and exceeds New Mexico's, the state minimum wage automatically increases to match it.

In addition, New Mexico's *Minimum Wage Act* allows local municipalities to exceed the state minimum wage, provided that the local minimum wages were in place prior to January 1, 2009. This provision applies to two cities in New Mexico, Santa Fe and Albuquerque, requiring postsecondary educational institutions in those cities to pay work-study students no less than the higher rates. Table 4, *Minimum Wages in New Mexico*, shows the changes in the state and city minimum wages from 2005 through 2009.

**Table 4. Minimum Wages in New Mexico
2006 – 2009**

State/City	Jan. 1, 2006	Jan. 1, 2007	Jul. 24, 2007*	Jan. 1, 2008	Jul. 24, 2008*	Jan. 1, 2009
Statewide	\$5.15	\$5.15	\$5.85*	\$6.50	\$6.55*	\$7.50
Albuquerque	\$5.15	\$6.75	\$6.75	\$7.15	\$7.15	\$7.50
Santa Fe	\$9.50	\$9.50	\$9.50	\$9.50	\$9.50	\$9.50

*Federal increases that surpass the state's minimum wage

Sources: *Minimum Wage Act*, City of Albuquerque, City of Santa Fe, US Department of Labor

In order to account for increases in the minimum wages, provide an average total work-study award of approximately \$2,700 to each student, and provide sufficient funding for just over 4,000 state work-study participants, HED estimates that approximately \$3.3 million would have to be added to the state work-study budget for FY 10. This funding would bring the total work-study budget to approximately \$9.2 million per year.

State Work-Study Expenditure Reports

Although HED's rule has not been updated recently, it requires institutions receiving work-study funding to provide HED, in a timely manner, with a report of expenditures through December 31 and June 30 in each year of participation in the state work-study program. However, it appears that (1) some institutions that have received state work-study funding from HED have not reported expenditures of the funds to the department, and (2) some institutions expended significantly fewer funds than they received from the department.

In the preparation of this report, HED provided LESC staff with records of state work-study allocations to institutions and student participation and award information from each institution dating back to academic year 1998-1999 (FY 99). A sample of these data is provided in Attachment 4, *HED Work-Study Allocations and Awards by Postsecondary Institutions*. This attachment provides a comparison, for each participating postsecondary educational institution, of HED state work-study allocations, total work-study awards, the number of work-study recipients, and average work-study awards at each institution as reported to HED for academic year 2006-2007 (FY 07 funding).

A review of the data included in Attachment 4 reveals that,

- six institutions that received state work-study allocations from HED (including one branch college) did not report the expenditures to the department (denoted by

an asterisk (*) in Attachment 4). HED reports that some discrepancies may be errors in reporting, and is working with institutions to correct them; and

- eleven institutions, including seven branch colleges, appear to have expended less state work-study money than the department allocated to them (denoted by two asterisks (**) in Attachment 4). The department reports that it is in the process of investigating these discrepancies to determine whether the formula for allocating work-study funds to institutions needs to be revised.

Eligible Postsecondary Educational Institutions

As mentioned earlier, the *Work-Study Act* defines an institution that may participate in the state work-study program as “any state post-secondary educational institution and any private non-profit post-secondary educational institution within New Mexico.” Although the practice by HED has been to provide state work-study funds to community colleges and tribal colleges since at least FY 99, the act does not address these entities.

According to the Legislative Council Service (LCS), the term “state post-secondary educational institution” refers to those postsecondary institutions established in Article 12, Section 11 of the New Mexico state constitution; therefore, it does not include community colleges or tribal colleges. Article 12, Section 11 of the state constitution defines 10 “state educational institutions,” including eight postsecondary institutions, the New Mexico School for the Blind and Visually Impaired, and the New Mexico School for the Deaf. The eight state postsecondary institutions are:

- the University of New Mexico;
- New Mexico State University;
- New Mexico Highlands University;
- Western New Mexico University;
- Eastern New Mexico University;
- the New Mexico Institute of Mining and Technology;
- Northern New Mexico College; and
- the New Mexico Military Institute.

According to LCS, in order to include community colleges, the *Work-Study Act* would need to be amended to use the term “public postsecondary educational institution.”

Regarding tribal colleges, the *Work-Study Act* would also have to be amended in order to include them in the state work-study program. Some guidance may be found in the *College Affordability Act*, which was amended in 2007 to differentiate between public postsecondary educational institutions and tribal colleges and to allow students at tribal colleges to receive college affordability scholarships.²

A final issue that bears noting with regard to eligible institutions is that, although the College of Santa Fe has participated in the state work-study program in past years, the college may not be eligible to receive work-study funds in the future. According to HED, the College of Santa Fe’s Board of Trustees has voted to form a partnership with a for-

² The *College Affordability Act* defines tribal colleges as tribally, federally or congressionally chartered postsecondary educational institutions located in New Mexico that are accredited by the North Central Association of Colleges and Schools.

profit company, and subsequently the department has placed all FY 09 state financial aid allocations to the college on hold until the college informs them of the status of the partnership. If the partnership is formed, the college will no longer be a nonprofit institution and, therefore, will no longer be eligible to receive state work-study funding.

Policy Options

This staff review of the state work-study program suggests several policy options.

- Considering the date of the HED rule on work-study programs, the inconsistent reporting of work-study expenditures by postsecondary educational institutions, and the department's intention to address these issues, the committee may wish to consider sending a letter to the Secretary of Higher Education supporting the department's efforts.
- In order to maintain the FY 04 participation rate of approximately 4,000 students in the state work-study program (that rate has declined to approximately 3,400 as of FY 07) and to compensate for the imminent increases in federal, state, and local minimum wages, the committee may wish to consider endorsing increased funding for the state work-study program. (HED estimates that an additional \$3.3 million would have to be added to the state work-study budget to provide sufficient funding – see “Minimum Wage Increases” on page 10.)
- In order to include community colleges as institutions that may participate in the state work-study program, the committee may wish to consider an amendment to the *Work-Study Act* to replace the term “state postsecondary educational institution” with the term “public postsecondary educational institution.”
- In order to include tribal colleges as institutions that may participate in the state work-study program, the committee may wish to consider an amendment to the *Work-Study Act* to define and include tribal colleges, similar to the *College Affordability Act*.

The Availability of Student Loans

The recent credit crisis has been a concern for many, including students and parents seeking student financial aid for the upcoming academic year. According to *Stateline.org*, in April 2008, more than 50 private student loan lenders had dropped out of the Federal Family Education Loan Program (FFELP), which guarantees private student loans. However, FFELP still had over 2,000 other lenders in the program. On the other hand, eight states had also either suspended their private loan programs or pulled out of the federal loan program. Therefore, while the credit crisis appears to be causing some private lenders to give up their student loans, many other private lenders may be able to absorb the business.

At the state level, in April 2008, the president of New Mexico Student Loans reported to the Legislative Finance Committee (LFC) that the New Mexico Educational Assistance Foundation, New Mexico's private student loan lender authorized in the *Educational Assistance Act*, estimates that the total amount of new loans the foundation will be able to issue for academic year 2008-2009 will be \$160.0 million, compared to \$364.0 million in academic year 2007-2008. However, the president also reported that borrowing needs of New Mexico students are expected to increase. The organization will continue to provide updates throughout the 2008 interim.

The federal government is also putting measures into place to ensure that students have access to student loans for the upcoming academic year. In May 2008, the US Department of Education (USDE) announced a plan to ensure continued access to federal student loans for students. The plan consists of four parts:

- Providing short-term relief for lenders – USDE will purchase new loans from lenders participating in the FFELP, and will also purchase interests in pools of loans made by lenders for academic year 2008-2009.
- Working with lenders to “reengage capital markets” – USDE is working with lenders to create temporary remedies to ensure that sufficient capital exists for loans this year.
- Strengthening the lender of last resort program – USDE will provide federal advances to loan agencies to expand the federal lender of last resort program for students who are not otherwise able to qualify for conventional loans.
- Increasing the direct loan capacity – if needed, USDE will be able to double the federal direct loan volume from \$15.0 billion to \$30.0 billion.

Therefore, it appears that, although the current credit crisis may be having some effect on the private student loan industry, for the time being, sufficient private and federal resources appear to exist to serve students who cannot obtain loans elsewhere.

21-21A-23

WORK-STUDY

21-21B-2

will not limit or alter the rights hereby vested in the foundation or the corporation by that act to fulfill the terms of any agreement made with the holders thereof or in any way impair the rights and remedies of such holders until such bonds or notes together with the interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of such holders are fully met and discharged. The foundation is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

History: Laws 1981, ch. 319, § 22.

21-21A-23. Administration of the student loan act and student loan guarantee act.

A. The fiscal agent designated by the board of educational finance pursuant to the provisions of the Student Loan Act [21-21-1 to 21-21-13 NMSA 1978] and Student Loan Guarantee Act [21-21-14 to 21-21-24 NMSA 1978] may enter into an agreement with the foundation for the performance of his duties and responsibilities under those acts.

B. Any existing reserve funds used for the purpose of guaranteeing loans under the Student Loan Guarantee Act shall be transferred to the corporation to be used for the same purpose.

C. At such time as the 1978 series student loan refunding bonds have been fully retired, all funds and uncollected student loan notes remaining with the state treasurer shall be transferred to the foundation to be used for the benefit of the then existing educational loan program.

History: Laws 1981, ch. 319, § 23.

ARTICLE 21B

Work-Study

Sec.

21-21B-1. Short title.

21-21B-2. Definitions.

21-21B-3. Fund; creation.

21-21B-4. Fund; allocation.

21-21B-5. Disbursement of funds.

Sec.

21-21B-6. Program; description.

21-21B-7. Students; eligibility.

21-21B-8. Compensation.

21-21B-9. Prohibitions.

21-21B-1. Short title.

Chapter 21, Article 21B NMSA 1978 may be cited as the "Work-Study Act".

History: Laws 1982, ch. 88, § 1; 2005, ch. 289, § 27.

The 2005 amendment, effective April 7, 2005, adds the statutory reference to the act.

21-21B-2. Definitions.

As used in the Work-Study Act [21-21B-1 NMSA 1978]:

A. "board" or "commission" or "department" means the higher education department; and

B. "institution" means any state post-secondary educational institution and any private nonprofit post-secondary educational institution within New Mexico.

History: Laws 1982, ch. 88, § 2; 2005, ch. 289, § 28.

Bracketed material. — See 21-1-26 NMSA 1978. The bracketed material was inserted by the compiler; it was not enacted by the legislature and is not a part of the law.

The 2005 amendment, effective April 7, 2005, defines "commission" and "department" in Subsection A to mean the higher education department and deletes the reference to the board of educational finance in the definition in Subsection A.

21-21B-3. Fund; creation.

A "work-study fund" is created in the state treasury. The commission is instructed to create and maintain a state work-study program in accordance with the Work-Study Act. The commission is authorized to promulgate rules and regulations necessary to administer the Work-Study Act [21-21B-1 to 21-21B-9 NMSA 1978]. A financial aid officer may exercise professional judgment when special circumstances exist to adjust cost of attendance or expected family contribution or to modify other factors that make the program responsive to a student's special financial circumstances and for which documentation exists in the student's file within the parameters authorized for this program.

History: Laws 1982, ch. 88, § 3; 1991, ch. 262, § 1.

The 1991 amendment, effective June 14, 1991, substituted "commission" for "board" in two places and added the final sentence.

21-21B-4. Fund; allocation.

Funds appropriated to the work-study fund shall be allocated by the board [commission] to eligible institutions for their use in employing eligible students.

History: Laws 1982, ch. 88, § 4.
Bracketed material. — See 21-1-26 NMSA 1978 and notes thereto.

Am. Jur. 2d, A.L.R. and C.J.S. references. —
15A Am. Jur. 2d Colleges and Universities §§ 19, 32 to 34; 63A Am. Jur. 2d Public Funds §§ 56 to 58.
14A C.J.S. Colleges and Universities §§ 7, 31, 33;
81A States §§ 205, 211.

21-21B-5. Disbursement of funds.

The board [commission] shall assure that expenditures from the work-study fund are apportioned equitably among eligible institutions.

History: Laws 1982, ch. 88, § 5.
Bracketed material. — See 21-1-26 NMSA 1978. The bracketed material was inserted by the compiler;

it was not enacted by the legislature and is not a part of the law.

21-21B-6. Program; description.

Any student who is eligible under Section 7 [21-21B-7 NMSA 1978] of the Work-Study Act may apply for work-study employment, but the board [commission] must expend at least one-third of the money from the work-study fund in any one academic year for applicants chosen on the basis of monetary need criteria set by the board [commission]. The institution which the student attends shall arrange employment. Employment is limited to post-secondary nonprofit institutions, state political subdivisions, state agencies and nonprofit organizations which are approved by the board [commission]. The employer must pay at least twenty percent of the salary and benefits of the student.

History: Laws 1982, ch. 88, § 6.
Bracketed material. — See 21-1-26 NMSA 1978. The bracketed material was inserted by the compiler;

it was not enacted by the legislature and is not a part of the law.

21-21B-7. Students; eligibility.

A student is eligible for employment in the state work-study program if he is enrolled at least a one-half-time student, is in compliance with the institution's satisfactory academic progress requirements, is a resident of New Mexico and has legally entered the United States. The commission on higher education shall establish criteria to apply in determining whether the enrollment and residency requirements are met by the applicant.

History: Laws 1982, ch. 88, § 7; 1991, ch. 262, § 2.

The 1991 amendment, effective June 14, 1991, rewrote the first sentence which read "A student is⁵ eligible for employment in the state work-study program if he is enrolled as a full-time student, main-

tains a grade point average of 2.0 on a 4.0 scale during an academic term and is a resident of New Mexico and a citizen of the United States" and substituted "commission on higher education" for "board" in the second sentence.

21-21B-8. Compensation.

Students shall not be paid less than the rate set forth in Section 50-4-22 NMSA 1978. Students are not eligible for benefits under the Unemployment Compensation Law [Chapter 51 NMSA 1978] because of participation in the work-study program.

History: Laws 1982, ch. 88, § 8.

21-21B-9. Prohibitions.

Students cannot work in the following jobs and remain eligible for the state work-study program:

- A. jobs that advance a religious purpose;
- B. jobs that have an objective that is primarily religious;
- C. jobs that involve excessive entanglements with a religious organization; and
- D. jobs that involve partisan political activity.

History: Laws 1982, ch. 88, § 9.

ARTICLE 21C Student Choice Grants

Sec.
21-21C-1. Short title.
21-21C-2. Purpose.
21-21C-3. Definitions.
21-21C-4. Fund created.
21-21C-5. Grants; procedures.

Sec.
21-21C-6. Eligibility.
21-21C-7. No funds for sectarian purposes.
21-21C-8. Promulgation and distribution of regulations.
21-21C-9. Penalty.

21-21C-1. Short title.

This act [21-21C-1 to 21-21C-9 NMSA 1978] may be cited as the "Student Choice Act".

History: Laws 1983, ch. 240, § 1.

21-21C-2. Purpose.

The legislature finds that independent institutions of higher education provide a valuable service for New Mexico residents by allowing educational choice. The legislature declares that the purpose of the Student Choice Act [21-21C-1 to 21-21C-9 NMSA 1978] is to broaden student choice and to make maximum possible utilization of existing postsecondary educational resources and facilities, both public and independent, and thus to benefit the residents of the state. The legislature further finds that the broadening of educational choice will reduce the financial demands on the taxpayers of New Mexico.

History: Laws 1983, ch. 240, § 2.

21-21C-3. Definitions.

As used in the Student Choice Act [21-21C-1 to 21-21C-9 NMSA 1978]:

- A. "board" ["commission"] means the board of educational finance [commission on higher education];

This rule was filed as 5 NMAC 7.10.

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 7 TUITION AND FINANCIAL AID
PART 10 STATE WORK STUDY PROGRAM

5.7.10.1 ISSUING AGENCY: State of New Mexico Commission on Higher Education, 1068 Cerrillos Road, Santa Fe, New Mexico, 87501-4295, (505) 827-7383.
 [7/15/98; Recompiled 10/31/01]

5.7.10.2 SCOPE: Provisions of 5 NMAC 7.10 [now 5.7.10 NMAC] apply to public or selected private non-profit post-secondary institutions in New Mexico.
 [7/15/98; Recompiled 10/31/01]

5.7.10.3 STATUTORY AUTHORITY: Laws of 1982, Chapter 88, Sections 21-21B-1 to 9, NMSA 1978.
 [7/15/98; Recompiled 10/31/01]

5.7.10.4 DURATION: Permanent.
 [7/15/98; Recompiled 10/31/01]

5.7.10.5 EFFECTIVE DATE: July 15, 1998 [unless a later date is cited at the end of a section].
 [7/15/98; Recompiled 10/31/01]

5.7.10.6 OBJECTIVE: The objective and purpose of 5 NMAC 7.10 [now 5.7.10 NMAC] is to provide a financial aid program for resident needy students; therefore, a distribution formula reflecting changing demographics of such students is to be used for allocating appropriated funds.
 [7/15/98; Recompiled 10/31/01]

5.7.10.7 DEFINITIONS:

A. "Academic year" means a period of time during which a full-time student is expected to complete the equivalent of one of the following:

- (1) two semesters;
- (2) two trimesters; or
- (3) three quarters of instruction;

B. "Act" means the Work Study Act;

C. "Commission" means the New Mexico commission on higher education;

D. "Cost of education" means the cost of attending an institution as defined by the institution and approved by the commission;

E. "Dependent student" is a student who does not qualify as self-supporting or independent student;

F. "Eligible institution" means any state post-secondary educational institution and any private nonprofit post-secondary educational institution within New Mexico;

G. "Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and his or her spouse to meet the student's cost of education and the amount which reasonably may be expected to be provided by his or her parents for such purpose;

H. "Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his or her spouse to meet the student's cost of education;

I. "Fund" means the New Mexico work study fund;

J. "Half-time student" means a student carrying a [sic] at least six semester hours during regular session and three semester hours during summer session as work-load, other than by correspondence, as measured by both of the following:

- (1) coursework or other required activities, as determined by the institution that the student attends or by the state;
- (2) the tuition and fees normally charged for half-time study by that institution;

K. "Monetary need" is established when a student's expected family contribution as determined by the federal methodology is less than the cost of attendance determined by the institution.
[7/15/98; Recompiled 10/31/01]

5.7.10.8 STUDENT ELIGIBILITY: A student is eligible to receive New Mexico work study funds if the student:

- A. is a resident (for tuition purposes) of New Mexico;
 - B. is a citizen of the United States or a permanent resident alien;
 - C. is enrolled at least six semester hours during regular session and three semester hours during summer session as a student at an eligible institution;
 - D. is in compliance with the institution's satisfactory academic progress requirements; and
 - E. is eligible according to a standard needs analysis or when a financial aid officer exercises professional judgment in accordance with the institution's and applicable federal financial aid standards to determine that circumstances, for which documentation exists in the student's file, warrant adjusting the cost of attendance, expected family contribution or other factors to make the program responsive to a student's special financial circumstances, within the parameters authorized for this program.
- [7/15/98; Recompiled 10/31/01]

5.7.10.9 ADMINISTRATION AND ALLOCATION OF FUNDS:

- A. The commission shall assure that expenditures from the work study fund are apportioned equitably among eligible institutions.
- B. The commission shall require reports from participating institutions as deemed necessary.
- C. The commission or its administrative agent shall disburse funds to participating institutions when necessary.
- D. All administrative costs for the program will be borne by participating schools. No New Mexico general fund monies appropriated for the New Mexico work study program will be expended for administration. In addition, should an audit be required, costs will accrue to the school involved in the program and will in no way represent an obligation of the state of New Mexico.
- E. The institution shall comply with all parts of the Work Study Act and the New Mexico work study program regulations.
- F. The institution shall employ only eligible students with each student's earnings limited to the amount indicated in the financial aid award letter.
- G. The institution shall determine that at least the amount allocated by the need portion of the commission approved distribution formula shall be awarded to financially needy students.
- H. The institution shall arrange employment for students limited to post-secondary nonprofit institutions, state political subdivisions, state agencies and nonprofit organizations that are approved by the commission.
- I. The institution shall not arrange employment for the students in any of the following:
 - (1) jobs that advance a religious purpose;
 - (2) jobs that have an objective that is primarily religious;
 - (3) jobs that involve excessive entanglements with a religious organization; or
 - (4) jobs that involve partisan political activity.
- J. The institution shall ensure that the employer contributes at least twenty percent of the salary and benefits for the student.
- K. The institution shall ensure that students are not paid less than the rate set forth in Section 50-4-22, NMSA 1978.
- L. The institution shall maintain normally accepted accounting procedures in regard to all aspects of the New Mexico work study program.
- M. The institution shall in a timely manner provide the commission with a report of expenditures through December 31 and June 30 in each year of participation.
- N. The institution shall keep intact and accessible records of the receipt and expenditure of New Mexico work study program funds, including all accounting records and original and supporting documents necessary to document how the funds are spent. The records shall be retained in compliance with New Mexico records retention requirements.

O. Students are not eligible for benefits under the unemployment compensation law because of participation in the work study program.

P. The institution may employ a student during a special session (e.g., summer school) if the student is otherwise eligible.

[7/15/98; Recompiled 10/31/01]

HISTORY OF 5.7.10 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives under:

BEF Rule 850, State Work Study Program - Administrative Regulations, 2/27/85.

BEF Rule 850, State Work Study Program - Administrative Regulations, 7/3/85.

CHE Rule 850, State Work Study Program - Administrative Regulations, 8/15/91.

History of Repealed Material: [RESERVED]

HED State Work-Study Allocations and Awards Made by Postsecondary Institutions
FY 07 (academic year 2006-2007)
(actual dollars)

A	B	C	D	E	F
Institution	Campus	HED Allocation	Total Amount Awarded	Number of Recipients	Average Award (D/E)
Clovis Community College	Main	\$147,933	\$230,065	115	\$2,001
Central New Mexico Community College	Main	\$1,074,840	\$1,302,286	485	\$2,685
College of Santa Fe	Main	\$113,833	\$181,758	50	\$3,635
College of the Southwest	Main	\$46,664	\$72,536	32	\$2,267
Crownpoint Institute of Technology	Main*	\$11,785	not available	not available	not available
Dine College	Main	\$19,658	\$24,473	19	\$1,288
Eastern New Mexico University	Main	\$153,502	\$234,182	111	\$2,110
	Roswell	\$205,219	\$256,530	78	\$3,289
	Ruidoso*	\$33,841	not available	not available	not available
	ENMU Subtotal:	\$392,562	\$490,712	189	\$2,699
Institute of American Indian Arts	Main*	\$6,940	not available	not available	not available
Luna Community College	Las Vegas	\$65,574	\$80,869	65	\$1,244
Mesalands Community College	Main*	\$24,922	not available	not available	not available
New Mexico Highlands University	Main	\$132,202	\$213,902	79	\$2,708
New Mexico Institute of Mining and Technology	Main**	\$65,247	\$64,289	55	\$1,169
New Mexico Junior College	Main**	\$130,636	\$19,753	17	\$1,162
New Mexico Military Institute	Main*	\$18,433	not available	not available	not available
New Mexico State University	Main	\$701,190	\$937,227	543	\$1,726
	Alamogordo	\$99,842	\$103,724	76	\$1,365
	Carlsbad**	\$80,918	\$67,231	49	\$1,372
	Dona Ana**	\$345,613	\$261,452	161	\$1,624
	Grants**	\$45,364	\$33,659	24	\$1,402
	NMSU Subtotal:	\$1,272,927	\$1,403,293	853	\$1,498
Northern New Mexico College	El Rito	\$92,230	\$94,598	30	\$3,153
Santa Fe Community College	Main	\$144,511	\$155,554	66	\$2,357
San Juan College	Main	\$293,305	\$366,625	249	\$1,472
Southwestern Indian Polytechnic Institute	Main**	\$32,812	\$18,751	33	\$568
St. John's College	Main*	\$21,347	not available	not available	not available
University of New Mexico	Main	\$1,119,758	\$2,084,493	894	\$2,332
	Gallup**	\$153,222	\$85,813	53	\$1,619
	Los Alamos**	\$50,004	\$38,598	11	\$3,509
	Taos**	\$58,091	\$38,320	20	\$1,916
	Valencia**	\$108,567	\$37,839	26	\$1,455
	UNM Subtotal:	\$1,489,642	\$2,285,063	1,004	\$2,166
Western New Mexico University	Main**	\$141,597	\$118,959	66	\$1,802
TOTALS:		\$5,739,600	\$7,123,486	3,407	\$1,993

*Denotes postsecondary institutions, including branch colleges, that did not report work-study expenditures to HED.

**Denotes postsecondary institutions, including branch colleges, that awarded less work-study money than they received from HED.